

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17120

Michael and Brenda Bloom
v.
Overbrook Water Company

Public Meeting of Nov. 14, 2019
3008683-ALJ
Docket No. C-2019-3008683

MOTION OF CHAIRMAN GLADYS BROWN DUTRIEUILLE

Before the Commission is the formal Complaint, filed March 14th, 2019, of Michael and Brenda Bloom (The Blooms or Complainants) versus Overbrook Water Company (Overbrook or Company). In their Complaint the Blooms contend Overbrook failed to provide reasonable and adequate service to their residence. As a remedy, the Complainants request the Commission force the sale of the Company to a competent utility or impose a fine. The record indicates the Blooms began to experience water service issues in March of 2018. Details in the proceeding show that the Complainants experienced at least ten instances of low water pressure and main breaks from March 2019 to July 2019.

The presiding Administrative Law Judge (ALJ) Benjamin J. Myers issued an Initial Decision on September 13th, 2019 which dismissed the Complaint. First, the ALJ acknowledged that the Complainants' issues with their service are understandable. However, the ALJ states neither the Public Utility Code nor Commission regulations require flawless service. Further, the Initial Decision notes that Overbrook has exhibited continued efforts to respond to the referenced service issues. In conclusion, the ALJ contends that the Blooms have failed to show the Company's service issues rise to the level of unreasonable or inadequate service; therefore, there is no basis for sustaining the Complaint and imposing of a civil penalty.

Second, the ALJ states the Company is presently working cooperatively with the Commission's Bureau of Investigation and Enforcement (I&E) to ameliorate its service issues. This observation, coupled with the ALJ's finding that the service issues presented in this Complaint were not unreasonable, lead the ALJ to conclude that there is no basis to direct an investigation into the sale of Overbrook.

I agree that this record does not substantiate the ordering of an investigation into the potential sale of Overbrook. However, I do not agree that the record fails to support a finding of unreasonable service. The ALJ is correct when submitting that utilities are not required to offer perfect or flawless service. Rather, as to service, the Commission requires that it be reasonably continuous. As such, the exact

characterization of what constitutes unreasonable service is not black and white and can vary depending on circumstances. When applying prudent judgement, I believe the record here, exhibiting a minimum of ten instances of low water pressure and main breaks, is reflective of unreasonable service to the Complainants and therefore a violation of Section 1501 of the Code, 66 Pa. C.S. § 1501.

Water is a necessary resource for health and human safety. Therefore, the frequent service issues and interruptions detailed in the complaint are of consequence. However, there are numerous mitigating factors to consider when determining a civil penalty. Overbrook's conduct in handling these service issues was not shown to be egregious, does not exhibit willful fraud, and is not intentional. Further, the record shows that the Company responded in good faith to promptly make repairs necessary for the Blooms to be brought back to nominal service. These efforts include repairing water mains and installing a new pressure regulator. Additionally, the record shows that the Company is cooperating with I&E in attempts to improve its future service quality.

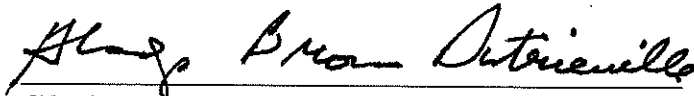
There is nothing on the record here that shows these service issues affected a significant number of customers. Moreover, the Company's size is quite small, serving approximately 180 customers according to its 2017 Fiscal Year Annual Report filed with the Commission. Similarly, it does not appear that Overbrook customers have a history of service complaints before the Commission.

Balancing the frequency of these service issues with numerous mitigating factors, including but not limited to the Company's attempts to promptly remedy issues and the Company's size, I believe assessing a small civil penalty is prudent. Consequently, I submit that a penalty of \$50 for each of the ten service issues presented on the record is warranted and consistent with 52 Pa. Code § 69.120 and 66 Pa C.S. § 3301. Such a determination results in an overall civil penalty of \$500.

THEREFORE, I MOVE THAT:

1. The Initial Decision be modified consistent with this motion.
2. The Office of Special Assistants draft an Opinion and Order consistent with this Motion.

November 14, 2019
Date


Gladys Brown Dutrieuille, Chairman